

Amendment No. 1 to HB2296

Coleman
Signature of Sponsor

AMEND Senate Bill No. 2284

House Bill No. 2296*

by deleting SECTION 3(l)(2) in its entirety and by substituting instead the following:

(2) Stranger-originated life insurance arrangements do not include a lawful viatical settlement contract as defined in this section, or those practices set forth in subdivision (o)(4) of this section.

by deleting the language "Section 3" in subsection (n) of Section 3 and by substituting instead the language "Section 4".

AND FURTHER AMEND by deleting the language "and" at the end of subdivision (f)(1)(A) of Section 3; by deleting the language "." and by substituting instead the language ";" at the end of subdivision (f)(1)(B) of Section 3; and by deleting subdivisions (f)(1)(C) and (D) of Section 3 and by substituting instead the following:

(C) Entering into any agreement or undertaking any act or plan which involves stranger-originated life insurance; or

(D) Failing to disclose to the insurer when requested by the insurer that the prospective insured has undergone a life expectancy evaluation within one (1) year prior to or subsequent to applying for the insurance policy by any person or entity other than the insurer or its authorized representative in connection with the issuance of a policy;

AND FURTHER AMEND by deleting the language "purposes" in subdivision (k)(2)(A) of Section 3 and by substituting instead the language "purpose".

AND FURTHER AMEND by deleting the language "or any affiliate of the viatical settlement provider" in subdivision (o)(1) of Section 3.

AND FURTHER AMEND by deleting subdivisions (f)(1)(D) and (E) of Section 4 and by substituting instead the following:

(D) If a viatical settlement provider, has demonstrated evidence of financial responsibility in a format prescribed by the commissioner through a surety bond executed and issued by an insurer authorized to issue surety bonds in this state, an errors and omissions insurance policy issued by an insurance company licensed to sell such insurance in this state, or a deposit of cash, certificates of deposit or securities or any combination thereof in the amount of two hundred fifty thousand dollars (\$250,000);

(E) If a viatical settlement broker, has demonstrated evidence of financial responsibility in a format prescribed by the commissioner through a surety bond executed and issued by an insurer authorized to issue surety bonds in this state, an errors and omissions insurance policy issued by an insurance company licensed to sell such insurance in this state including a policy issued to a viatical settlement provider which also covers the actions of the broker, or a deposit of cash, certificates of deposit or securities or any combination thereof in the amount of two hundred and fifty thousand dollars (\$250,000);

AND FURTHER AMEND by deleting the language "Sections 8, 10, 13 and 14(b)" in Section 6 and by substituting instead the language "Sections 9, 11, 14 and 15(b)".

AND FURTHER AMEND by deleting subsection (a) of Section 7 in its entirety and by substituting instead the following:

(a) Each viatical settlement provider shall file with the commissioner on or before March 1 of each year an annual statement containing such information as the commissioner may prescribe by regulation. In addition to any other requirements, the annual statement shall specify the total number, aggregate face amount, and life settlement proceeds of policies settled during the immediately preceding calendar year, together with a breakdown of the information by policy issue year.

AND FURTHER AMEND by deleting the language "nor shall arise" in subdivision (h)(1) of Section 8.

AND FURTHER AMEND by deleting subdivision (a)(6) of Section 9 in its entirety and by substituting instead the following:

(6) The viator has the right to rescind a viatical settlement contract before the earlier of thirty (30) calendar days after the date upon which the viatical settlement contract is executed by all parties or fifteen (15) calendar days after the viatical settlement proceeds have been paid to the viator, as provided in Section 11(f).

Rescission, if exercised by the viator, is effective only if both notice of the rescission is given, and the viator repays all proceeds and any premiums, loans and loan interest paid on account of the viatical settlement within the rescission period. If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment by the viator or the viator's estate of all viatical settlement proceeds and any premiums, loans and loan interest paid on account of the viatical settlement within sixty (60) days of the insured's death.

AND FURTHER AMEND by deleting the last sentence of subsection (a)(11) of Section 9 and by substituting instead the following:

All such contacts shall be made only by a viatical settlement provider licensed in the state in which the viator resided at the time of the viatical settlement and contract, or by the authorized representative of a duly licensed viatical settlement provider.

AND FURTHER AMEND by deleting subdivision (b)(3) of Section 9 in its entirety and renumbering the subsequent subdivisions accordingly.

AND FURTHER AMEND by deleting subdivision (c)(5) of Section 9 in its entirety.

AND FURTHER AMEND by deleting the language "paragraph (1)(b)" in subdivision (a)(3) of Section 11 and by substituting instead the language "subdivision (1)(B)".

AND FURTHER AMEND by deleting the language "license" in Section 11(b) and by substituting instead the language "licensee".

AND FURTHER AMEND by deleting subsection (c) of Section 11 and by substituting instead the following:

(c) The viator has the right to rescind a viatical settlement contract before the earlier of thirty (30) calendar days after the date upon which the viatical settlement contract is executed by all parties or fifteen (15) calendar days after the viatical settlement proceeds have been paid to the viator, as provided in Section 11(f). Rescission, if exercised by the viator, is effective only if both notice of the rescission is given, and the viator repays all proceeds and any premiums, loans and loan interest paid on account of the viatical settlement within the rescission period. If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment by the viator or the viator's estate of all viatical settlement proceeds and any premiums, loans and loan interest paid on account of the viatical settlement within sixty (60) days of the insured's death.

AND FURTHER AMEND by deleting the language "Section 8(d) and 8(e)" in subsection (d) of Section 11 and by substituting instead the language "Section 9(d) and 9(e)."

AND FURTHER AMEND by deleting the language "Section 8(a)(7)" in subsection (f) of Section 11 and by substituting instead the language "Section 9(a)(7)."

AND FURTHER AMEND by deleting subsection (g) of Section 11 in its entirety and by substituting instead the following:

(g) Contacts with the insured for the purpose of determining the health status of the insured by the viatical settlement provider after the viatical settlement has occurred shall only be made by the viatical settlement provider licensed in this state or its authorized representatives and shall be limited to once every three (3) months for insureds with a life expectancy of more than one year, and to no more than once per month for insureds with a life expectancy of one year or less. The provider shall explain the procedure for these contacts at the time the viatical settlement contract is entered into. The limitations set forth in this subsection shall not apply to any contacts with an insured for reasons other than determining the insured's health status. Viatical settlement providers and viatical settlement brokers shall be responsible for the actions of their authorized representatives.

AND FURTHER AMEND by adding the following sentence to the end of Section 10:

The insurer shall not disclose this information to any other viatical settlement provider or viatical settlement broker, including those affiliates of the insurer engaged in viatical settlement activity.

AND FURTHER AMEND by deleting the language “viator’s” in subdivision (a)(2)(C) of Section 12 and by substituting instead the language “viator”.

AND FURTHER AMEND by deleting subdivision (a)(3) of Section 12 in its entirety and by substituting instead the following:

(3) Such other exemptions as may be prescribed by rule.

AND FURTHER AMEND by deleting the language “Section 10(a)” in subsection (b) of Section 12 and by substituting instead the language “Section 11(a)” and further amend subsection (b) by deleting the language “or other party entering into a viatical settlement contract with a viator.”

AND FURTHER AMEND by adding the words “unless disclosed to the viator pursuant to this act” at the end of subsections (a) and (b) of Section 13.

AND FURTHER AMEND by deleting subsection (d) of Section 13 in its entirety and by substituting instead the following:

(d) A violation of subsection (a) or (b) shall be deemed a fraudulent viatical settlement act.

AND FURTHER AMEND by inserting the language “, including without limitation, a viatical settlement provider,” between the language “person” and “providing” in subsection (f) of Section 13.